10: Roscoe M-5 (ca. 1900)1915
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*Government.*

643 **Chiefs as rulers.** There is no king of the country, nor is there any single paramount chief; the Bantu chiefs claim equal, if not superior, rights to the land. Certain chiefs rule over extensive districts inhabited by the Nilotics, and their rights as leaders are considered to be hereditary; they are also looked to in cases requiring settlement or legislation.

423 **Land tenure.** Land which has not been cultivated in the past may be tilled by any family; but, when once it has been tilled, the community regard it as the property of the family whose ancestor first cultivated it. Should it be left fallow for a number of years, no other family may appropriate and till it without first obtaining the original owner's permission. Few people seek such permission, preferring to dig virgin-land which will afterwards belong to their children.

621 **Local chiefs as the magistrates.** The people live in communities. They build their houses in close proximity and in most cases surround them with a growing fence, leaving a gateway which can be closed during the night or in times of
622 danger. Such a village group is ruled by a sub-chief who is under the authority of the district-chief. The chief of a village is magistrate and controls the general affairs of his people. This chief levies no taxes, but his people make him presents of goats and sheep, and of grain also at harvest time.

692 **Courts and court fees.** Any person wishing to bring a charge against another for any ofience, real or imaginary,
694 pays a small fee to the chief of the village before whom he lays
695 his complaint or accusation. The chief or elder then summons the accused person and appoints a time when the case shall be heard. The chief sits with one or two village elders and gives his judgment. A person may appeal from a village chief to the principal chief in the district, and the elder who first tried the case will then go to the superior chief to be present when the case is reheard. The parties appealing have
681 to pay fresh court-fees before the case is retried. The punishment in almost every case is a fine and the amount is determined by the gravity of the case. The losing party has to

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firebrands. So in a small brick room put up by Bishop Tucker in 1911, and now the secondary school's common-room, I met a bunch of schoolmasters, all fluent in English, well-informed and politically-minded.

I put to them the question that most puzzled me; land reforms are unquestionably progressive and of benefit to Africans; by raising living standards they will advance the prospect of self-government; why, then, do so many educated Africans appear to oppose them?

The answer I got was unexpected. Mr. Samwell Ayan, a history teacher, a Makerere graduate, head of the Kenya Teachers' Union and an elected member of the District Council that was embroiled in trouble, spoke impressively—and with moderation and logic.

'People are not getting justice,' he said. 'Men are losing land they are entitled to because of bribery and corruption in the African Courts. Everyone is being bribed—land elders, chiefs, witnesses. Yes, from the African Courts a man can take his case before the D.C., but what can the D.C. do? He sees only the evidence in front of him; it is all rigged; the man loses his land. I know of many cases like that. The Courts are rotten—a washout.

'I know of a case where the president of the Court altered all the evidence after it had been given and sent it up to the superior Court. When the plaintiff heard the false evidence read out, he was hopelessly confused. Clerks take bribes to keep appeal cases beyond the date when the right to appeal lapses. This is being done even in Kisumu. All the land elders can be bribed. The hunger for land is so great.

'What should be done? First, hear land cases before everyone in the location who has, or is entitled to, land—a real people's court. Then, make tape-recordings of evidence in the lower courts; if the evidence is changed, everyone will know. And let the district officer take all land cases so that he hears everything.

'It is because of this corruption and unfairness that people oppose land consolidation. All the same, it has got to come. It is progressive. But do not let it be forced.'

Mr. Ayan spoke with sincerity and even passion. This